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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,783	02/28/2005	Richard Keith	100822-1P US	8524
22466	7590	03/31/2006	EXAMINER	
ASTRA ZENECA PHARMACEUTICALS LP GLOBAL INTELLECTUAL PROPERTY 1800 CONCORD PIKE WILMINGTON, DE 19850-5437			OLSON, ERIC	
			ART UNIT	PAPER NUMBER
			1623	

DATE MAILED: 03/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/525,783

Applicant(s)

KEITH, RICHARD

Examiner

Eric S. Olson

Art Unit

1623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 13-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) 13-22 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

Detailed Action

This application is a national stage entry of international application PCT/SE03/01352, filed 09/01/2003. Claims 13-22 are pending in this application. Applicant's preliminary amendment submitted 02/28/2005 is acknowledged wherein the specification was amended, claims 1-12 were canceled, and new claims 13-22 introduced.

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 13, 14, and 16-22 in part and claim 15 in full, drawn to a combination of a statin and an $\alpha 7$ -nAChR agonist having a spiro-1-azabicyclo[2.2.2]octane core structure and methods for using same.

Group II, claim(s) 3, 14, and 16-22 in part, drawn to a combination of a statin and an $\alpha 7$ -nAChR agonist having a 1-azabicyclo[2.2.2]octyl-amide core structure and methods of using same.

The inventions listed as Groups I and II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or

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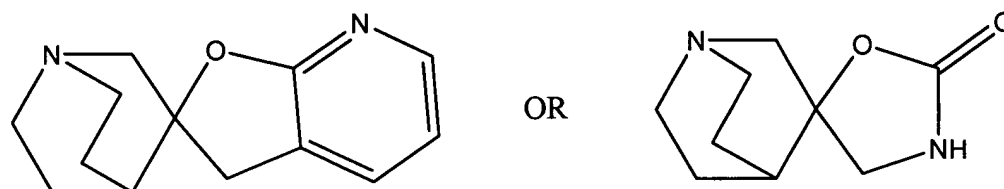
corresponding special technical features for the following reasons: Lack of a significant shared structural element.

The situation involving the "Markush Practice" wherein a single claim defines alternatives is governed by Rule 13.2. In this situation, the requirement of a technical interrelationship and the same or corresponding special technical features as defined in Rule 13.2, shall be considered to be met when the alternatives are of a similar nature. When the Markush grouping is for alternatives of chemical compounds, they shall be regarded as being of a similar nature when the following criteria are fulfilled:

(A) all alternatives have a common property or activity, **and**

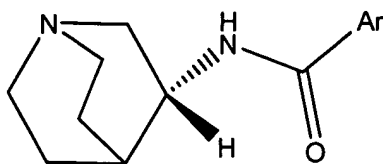
(B)(1) a common structure is present, i.e., a significant structural element is shared by all of the alternatives.

In the instant case, the numerous alternatives recited in claim 14 share the common property of being $\alpha 7$ -nAChR agonists. However, they are structurally dissimilar and do not share a common significant structural element. In particular, some of the compounds share a common spiro-1-azabicyclo[2.2.2]octane core structure as pictured below:



While the rest share a common 1-azabicyclo[2.2.2]octyl-amide core structure:

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Ar = Benzene, Furan, or Thiophene

These compounds lack a sufficient shared structural feature to be included in a single search of the existing chemical literature. While all recited compounds include a 1-azabicyclo[2.2.2]octane structural element, there is no single search term which would encompass all prior art for both classes without being excessively broad and encompassing many search results not relevant to the prosecution of the application. This is demonstrated by their separate appearance in other pending patent applications. For example, International applications WO2005/030778 (Published 07/04/2005, included in PTO-892) and WO2005/042538 (Published 12/05/2005, included in PTO-892) both claim only molecules of the spiro-azabicyclo structure, while US patent applications 11/089553 (Document 2005/0234095, included in PTO-892) and 10/731565 (Document 2005/0245504, included in PTO-892) both claim only amides and no spiro compounds. No other patents or applications include both classes of compound, so references found during a search of the literature for spiro-azabicyclo compounds are unlikely to bear any relevance to the patentability of azabicyclo-amides and vice versa. Therefore the search for all species in one application presents an undue search burden on the Office.

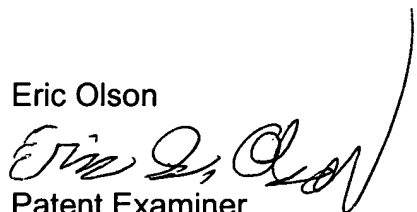
Applicant is advised that the requirement to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric S. Olson whose telephone number is 571-272-9051. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shaojia Anna Jiang can be reached on (571)272-0627. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Eric Olson


Patent Examiner
AU 1623
3/24/06

Anna Jiang

 3/27/06
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